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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/017,190	12/12/2001	Richard Stewart	010202	6381

23696 7590 06/02/2006

QUALCOMM, INC  
5775 MOREHOUSE DR.  
SAN DIEGO, CA 92121

EXAMINER
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AN, SHAWN S

ART UNIT	PAPER NUMBER
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2621

DATE MAILED: 06/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/017,190	<b>Applicant(s)</b> STEWART ET AL.	
	<b>Examiner</b> Shawn S. An	<b>Art Unit</b> 2621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 21 March 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-11,13,14,25,26,28-34 and 44-47 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11,13,14,25,26,28-34 and 44-47 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Response to Amendment*

1. As per Applicant's instructions as filed on 3/21/06, claims 1, 25, and 44-47 have been amended, claims 12, 15-24, 27, and 35-43 have been canceled.

### *Response to Remarks*

2. Applicant's remarks as filed on 3/21/06 have been fully considered but they are not persuasive.

The Applicant presents arguments of which the cited prior art references fail to disclose:

A) dynamically establishing a frame rate of the video at least partially based on motion in the surveilled location, wherein the frame rate is a rate of processing only a portion of an entire frame; and

B) suggestion or motivation for combining the cited prior art references to yield the method of claim 1.

However, after careful scrutiny of the cited prior art references, the Examiner must respectfully disagree, and maintain the grounds of rejection for the reasons that follow.

In response to argument A), Applicant asserts that Pejhan is directed to dynamically changing or modifying a frame rate during **post processing** of the pre-recorded image sequence, and that the method of claim 1 does not dynamically change or modify a frame during post processing. First of all, Pejhan also teaches dynamically changing or modifying a frame rate during **non post processing stage** (not post processing) (original image sequence from server) (col. 3, lines 36-44). The claim 1 does not claim whether dynamically changing or modifying a frame rate occurs during **post processing** stage or **non post processing** stage. Furthermore, the Examiner is only introducing Pejhan's reference for teaching a concept of dynamically changing or modifying a frame rate of an original image sequence.

Furthermore, Applicant asserts that Lemke's reference teaches the frame rate being pre-selected and being used for recording the entire frame. However, the Examiner is not relying on Lemke's reference for teaching the pre-selected frame rate, but solely relying on a concept of increasing the frame rate, **wherein the frame rate is a rate of processing only portions of frame** (partial frame rate with respect to the object of interest such as motion of a person) (col. 2, lines 23-35).

In response to argument B), in response to Applicant's argument that there is no suggestion to combine the references, the Examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Pejhan et al teaches an apparatus and method for dynamically establishing the frame rate of an original image sequence, and Lemke et al teaches an apparatus for increasing the frame rate, wherein the frame rate is a rate of processing only portions of frame (col. 2, lines 23-35). ***Therefore, it would have been considered obvious to a person of ordinary skill in the relevant art*** employing a method for surveillance as taught by Epstein et al to incorporate the conventional concepts as taught by Pejhan et al and Lemke et al so as to dynamically establish a frame rate of the video at least partially based on motion in a surveilled location, wherein the frame rate is a rate of processing only a portion of an entire frame ***for dynamically enhancing the quality of the selected portion (an object of interest) of video images for security reviewing, only when there is a motion in an area of an image indicating an activity by a person/animal or a moving object (motivation emphasis).***

Therefore, Applicant's arguments are considered moot in view of all of the reasons as stated above.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-3, 9, 11, 44, and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Epstein et al (6,529,600 B1) in view of Pejhan et al (6,850,564 B1), Dozier et al (5,751,346), and Lemke et al (4,339,775) as previously discussed in the last Office action as filed on 9/21/05.

5. Claims 4-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Epstein et al, Pejhan et al, Dozier et al, and Lemke et al as applied to claim 1 above, and further in view of Monroe (6,518,881 B2) as previously discussed in the last Office action as filed on 9/21/05.

6. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Epstein et al, Pejhan et al, Dozier et al, and Lemke et al as applied to claim 1 above, and further in view of Acosta et al (6,166,729) as previously discussed in the last Office action as filed on 9/21/05.

7. Claims 13-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Epstein et al, Pejhan et al, Dozier et al, Lemke et al, and Monroe as applied to claim 4 above, and further in view of Acosta et al (6,166,729) as previously discussed in the last Office action as filed on 9/21/05.

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8. Claims 25-26, 28-29, 32-34, 45, and 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Naidoo et al (6,690,411 B2) in view of Epstein et al (6,529,600 B1), Dozier et al (5,751,346), and Lemke et al (4,339,775) as previously discussed in the last Office action as filed on 9/21/05.

9. Claims 30-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Naidoo et al, Epstein et al, Lemke et al, and Dozier et al as applied to claim 25 above, and further in view of Monroe (6,518,881 B2).

### ***Conclusion***

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

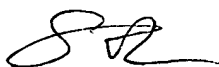
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

11. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to *Shawn S. An* whose telephone number is 571-272-7324.

12. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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13. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**SHAWN AN**  
**PRIMARY EXAMINER**

5/25/06